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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,438	09/26/2003	Michael J. Paljug	INSL:0075	8434

26122 7590 12/18/2006

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EXAMINER

NGUYEN, THUAN T

ART UNIT PAPER NUMBER

2618

DATE MAILED: 12/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/672,438	Applicant(s) PALJUG ET AL.	
	Examiner THUAN T. NGUYEN	Art Unit 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-26 is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/26/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless --
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.*

2. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Moon et al. (U.S. Patent No. 7,146,134 B2).

Regarding claim 1, Moon teaches a wireless transceiver comprising a plurality of antennas and a media access controller for controlling the antenna switch, and the determination when to switch to another antenna based on packet error rate (refer to Figs. 6 & 8/control module 808 interfaces to control circuit 800, and col. 1/lines 30-51 for the background on diversity switching and SNR in causing packet errors; and col. 7/lines 1-48 for packet error rate and the CRC error detecting and checking).

As for claim 2, Moon teaches this feature of CRC checking (col. 7/lines 23-48).

As for claim 3, Moon teaches this feature as well for checking/comparing the threshold for switching (col. 4/lines 40-60).

As for claim 4, Moon teaches this feature on how to select which antenna to transmit and/or receive signals based on the determining the threshold (col. 9/lines 25-54).

Allowable Subject Matter

3. Claims 5-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As for claim 5, Moon does not further teach to include a timer and a memory for counting and storing the at least one packet error and an antenna select logic that based on the counts and CRC check logic, controls the switching to another antenna.

4. Claims 7-26 have been allowed.

5. The following is a statement of reasons for the indication of allowable subject matter:

Moon does not further teach or suggest the at least one counter and the step of comparing the packet error count with a threshold value to determine whether a threshold condition is met, and if yes, to switch the antenna.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Schmidt et al., Eastmond et al, Obuchi and Carlson (in PTO 892 attached) disclose systems related to antenna diversity switching and techniques.

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7. **Any response to this action should be mailed to:**
Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to the New Central Fax number:
(571) 273-8300, (for Technology Center 2600 only)

Hand deliveries must be made to Customer Service Window,
Randolph Building, 401 Dulany Street, Alexandria, VA 22314.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony Thuan Nguyen whose telephone number is (571) 272-7895.

The examiner can normally be reached on Monday-Friday from 9:30 AM to 7:00 PM.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



TONY T. NGUYEN
PATENT EXAMINER *TDH*

Tony T. Nguyen
Art Unit 2618
December 8, 2006